

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

In re:	*	CHAPTER 13
	*	
WILLIAM J. BASILE,	*	CASE NO. 11-66383 - PWB
	*	
Debtor.	*	
-----		
	*	
WILLIAM J. BASILE,	*	
	*	
Movant,	*	CONTESTED MATTER
	*	
vs.	*	
	*	
WELLS FARGO BANK, N.A.,	*	
	*	
Respondent.	*	

**MOTION TO DETERMINE STATUS OF WHOLLY UNSECURED JUNIOR  
SECURITY INTEREST AND/OR LIEN ON REAL PROPERTY AND RELEASE  
UNDERLYING LIEN**

COMES NOW William J. Basile, debtor herein, and files this Motion to Determine Status of Wholly Unsecured Junior Lien on Real Property and Release Underlying Lien and shows:

**JURISDICTION**

1.

Movant filed for relief under Chapter 13 of the Bankruptcy Code on June 4, 2011. Jurisdiction is appropriate pursuant to 28 U.S.C. § 1334 and LR 83.7A NDGA. Venue is appropriate pursuant to 28 U.S.C. § 1409. This is a core proceeding as defined in 28 U.S.C. § 157(b)(2)(A) and (B).

2.

This motion is brought pursuant to 11 U.S.C. § 506(a) and (d); F.R.B.P. 3012 and 9014.

3.

Respondent Wells Fargo Bank, N. A. may be served by certified mail to its Chief Executive Officer as follows:

Wells Fargo Bank, NA  
ATTN: John Stumpf, CEO  
420 Montgomery Street  
San Francisco, CA 94163

#### RELEVANT FACTS

4.

Debtor filed a voluntary petition under Chapter 13, initiating the instant case on June 4, 2011. Debtor's Meeting of Creditors is scheduled for July 8, 2011; the confirmation hearing is scheduled for August 10, 2011; the deadline for filing non-governmental proofs of claim is October 6, 2011.

5.

Debtor lives in his primary residence located at 1720 Millside Terrace, Dacula, Georgia 30019, (hereinafter "Residence"). Debtor's Schedule A reflects ownership of the Residence, and lists the fair market value of the Residence as \$290,000.00, which fair market is supported by the report attached hereto as Exhibit "A".

6.

Wells Fargo Home Mortgage holds the first priority deed to secure debt on the Residence in the amount of \$337,281.00. Wells Fargo Home Mortgage has not filed a Proof of Claim.

7.

Respondent Wells Fargo Bank, N.A. holds a second priority deed to secure debt on the Residence in the amount of \$76,688.00. Respondent has not filed a Proof of Claim.

8.

Respondent's claim is not secured by any other property of Debtor or Debtor's bankruptcy estate.

9.

Based upon the valuations attached hereto, the amount of the first priority deed to secure debt exceeds the value of the Residence. Thus, Respondent's second priority deed to secure debt is wholly unsecured, subject to a "lien strip" and should be deemed wholly unsecured, pursuant to 11 U.S.C. § 506(d).

WHEREFORE, debtor requests the Court:

- (a) Declare Respondent's second priority deed to secure debt void;
- (b) Declare Respondent's claim to be wholly unsecured;
- (c) Order Respondent to release its lien upon entry of Debtor's discharge in this case;  
and
- (d) Grant any other relief as is just and proper.

This 22<sup>nd</sup> day of June, 2011.

/s/ Angelyn M. Wright  
Angelyn M. Wright  
Attorney for Debtor/Movant  
State Bar No. 777662

The Wright Law Alliance, P.C.  
160 Clairemont Ave. Suite 200  
P.O. Box 2890  
Decatur, GA 30031-2890  
(404) 373-9933

## **Exhibit “A”**



Street Address Zip Code or City, State Search

Home Values City Info Find Foreclosures Mortgage Rates

## 1720 Millside Ter Dacula, GA 30019



**\$268,275** **\$289,600**

5 Bed | 4.00 Bath | 3848 Sq Ft | 0.37 Acres

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	Loan Product	Rate	APR	Est. Pmt.	
<b>QuickenLoans</b> Engineered to Amaze	30 Yr. Fixed	4.375%	4.599%	\$1,339	<a href="#">Learn More</a>
	5/1 Yr. ARM	2.990%	3.116%	\$1,130	
	15 Yr. Fixed	3.750%	4.024%	\$1,951	
Updated 6/21/2011	<a href="#">Additional Loan Products</a>				<a href="#">Call Now</a>
<b>AmeriSave</b> Direct Mortgage Lender	30 Yr. Fixed	4.250%	4.469%	\$1,320	<a href="#">Learn More</a>
	15 Yr. Fixed	3.250%	3.588%	\$1,885	
Updated 6/21/2011	<a href="#">Additional Loan Products</a>				<a href="#">Call Now</a>
<b>Integrity Home Loan</b> "The Low Cost Mortgage Leader"	30 Yr. Fixed	4.250%	4.421%	\$1,320	<a href="#">Learn More</a>
	5/1 Yr. ARM	2.750%	2.906%	\$1,095	
	15 Yr. Fixed	3.375%	3.669%	\$1,901	
Updated 6/20/2011	<a href="#">Additional Loan Products</a>				<a href="#">Call Now</a>
<b>ING Direct</b>	5/1 Yr. ARM	3.125%	3.269%	\$1,149	<a href="#">Learn More</a>
	7/1 Yr. ARM	3.625%	3.491%	\$1,223	
Updated 6/20/2011	<a href="#">Additional Loan Products</a>				<a href="#">Call Now</a>

The rates were submitted by each individual lender/broker on the date indicated. Rate/APR terms offered by advertisers may differ from those listed above based on the creditworthiness of the borrower and other differences between an individual loan and the loan criteria used for the HSH.com quotes. More Info. These quotes are from banks, thrifts and brokers who have paid for a link to their website in the listings above and you can find additional information about their loan programs on their websites.

## Refinance Rates for 6/22/11

\$150,000

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Company	Loan Type	APR	Est. Pmt.	
<b>CapWest mortgage</b>	30 Yr. Fixed	4.61%	\$749	<a href="#">GO</a>
	5/1 Yr. ARM	2.96%	\$612	
<b>QuickenLoans</b> Engineered to Amaze	30 Yr. Fixed	4.64%	\$749	<a href="#">GO</a>
	5/1 Yr. ARM	3.15%	\$632	
<b>AmeriSave</b> Direct Mortgage Lender	30 Yr. Fixed	4.53%	\$738	<a href="#">GO</a>
	15 Yr. Fixed	3.68%	\$1,054	

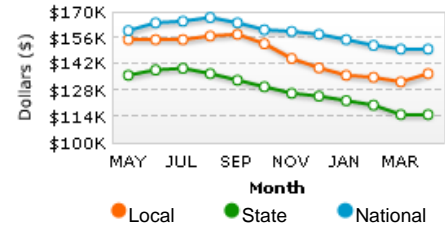
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1720 MILLSIDE TER

**12**

## Dacula, GA Home Values

Home Value Trending [What's This](#)



### Home Data (as of April)

**Median Sales Price:** \$137,000 0% (from last month)

**Number of Sales:** 56

Dacula Home Values

## Recently Sold Homes

List View [Map View](#)

Address	Sales Price	Sale Date	Bed/Bath	Sq. Ft.
1690 Millside Ter Dacula, GA 30019	\$328,000	8/12/2010	4/4	3769
2896 High Creek Run Dacula, GA 30019	\$147,000	11/12/2010	5/3	4025
1345 Lamont Cir Dacula, GA 30019	\$265,000	3/24/2011	5/4	4357
1340 Lamont Cir Dacula, GA 30019	\$304,900	7/28/2010	5/4	3655

## Local Information

- [More info about Dacula](#)
- [Homes for Sale in Dacula](#)

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## Dacula Real Estate Professionals

### Home Inspector

**Benjamin Ivey**

(770) 316-6204

[Dacula Home Inspectors](#)

### Mortgage Broker

**Kecia Love**

(678) 349-2121

**Cell Phone:**(678) 404-1454

[Dacula Mortgage Brokers](#)

### Real Estate Agent

**Wayne Chappel**

(404) 843-2500

**Cell Phone:**(678) 441-5692

[Dacula Real Estate Agents](#)

## Contact a local Real Estate Agent

**Wayne Chappel**

Better Homes and Gardens  
Real Estate Metro Brokers  
3330 Satellite Blvd Ste 1  
Duluth, GA 30096

**(404) 843-2500**

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1720 Millside Ter is in the 30019 ZIP code in Dacula, GA.

1720 Millside Ter has approximately 3848 square feet. 1720

Millside Ter has 5 bedrooms and 4.00 bathrooms. 1720 Millside Ter was last sold on 3/9/2001. The estimated population in Dacula, GA is 16,085, and 85.6% of the population have children living in the home. The median age in Dacula, GA is 34 years old, and the median income is \$0.

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CERTIFICATE OF SERVICE

This is to certify that I am over the age of 18 years and that on June 22, 2011, I caused to be served a copy of the within and foregoing ***Motion to Determine Status of Wholly Unsecured Junior Security Interest and/or Lien on Real Property and Release Underlying Lien*** on the parties listed below by placing same in a properly addressed envelope with adequate postage affixed thereto and depositing in the United States Mail addressed as follows:

Wells Fargo Bank, NA  
HEQ Credit Bureau  
P.O. Box 31557  
Billings, MT 59107-1557

Wells Fargo Home Mortgage  
P.O. Box 10335  
Des Moines, IA 50306-0335

Wells Fargo Bank, NA  
c/o Shapiro & Swertfeger, LLP  
2872 Woodcock Boulevard, Suite 100  
Atlanta, GA 30341-3941

Wells Fargo Bank, NA  
c/o Corporation Service Company, Reg'd Agent  
40 Technology Pkwy. South, Ste. 300  
Norcross, GA 30092

Wells Fargo Home Mortgage  
c/o Corporation Service Company, Reg'd Agent  
40 Technology Pkwy. South, Ste. 300  
Norcross, GA 30092

Mary Ida Townson  
Chapter 13 Trustee  
Suite 2700 Equitable Bldg.  
100 Peachtree Street, NW  
Atlanta, GA 30303

William J. Basile  
1720 Millside Terrace  
Dacula, GA 30019

And have served the following by certified mail:

Wells Fargo Bank, NA  
ATTN: John Stumpf, CEO  
420 Montgomery Street  
San Francisco, CA 94163

This 22<sup>nd</sup> day of June, 2011.

/s/ Angelyn M. Wright

160 Clairemont Avenue, Ste 200  
P.O. Box 2890  
Decatur, GA 30331-2890  
(404) 373-9933